

REMARKS

Claims 1, 2, 6 and 10 presently appear in this case. No claims have been allowed. The present amendment supplements applicants' amendment of August 31, 2005, and is thus further responsive to the final rejection of March 31, 2005. The present amendment is being made pursuant to agreements reached in an interview that will be discussed below. Reconsideration and allowance are therefore respectfully urged.

Briefly, the present invention is directed to methods for treating conditions wherein TNF is to be eliminated from the body or its effect in the body is to be antagonized by administering the TNF-binding protein of the present invention.

The interview, graciously granted on March 27, 2006, among Examiners Jiang and Spector and Applicant's representative Henry Einav, Jill Uhl and the undersigned attorney, is hereby gratefully acknowledged. In this interview, the rejections of the present claims over Seckinger in view of Dayer was discussed. Applicants' representatives pointed out to the examiners that, in grandparent application 08/474,691 which has now issued as Patent 5,981,701, claims 2 and 3 were allowed over identical references in light of the identical evidence as submitted herein. All claims pending

after entry of this amendment contain the limitation of the disclosed N-terminal sequence. Thus, the present claims should be allowed for at least the same reasons that the protein claims were allowed in the '701 patent.

During the interview, the examiners indicated that in order to allow the claims, some additional indication of purity must be set forth in the claims. The undersigned suggested that because the degree of purification disclosed in this specification was obviously sufficient to allow an N-terminal amino acid sequence to be determined, the claims could be amended to add such a limitation. While such language does not appear *in haec verba* in this specification, it was implicitly present as the degree of purification did indeed permit N-terminal sequencing. A specification includes not only what is explicitly set forth therein, but also what is implicitly or inherently set forth. See MPEP 2161 I.B. where it states:

While there is no *in haec verba* requirement, newly added claim limitations must be supported in the specification through express, implicit, or inherent disclosure.

As sufficient purity to allow N-terminal sequencing is implicitly set forth in this specification, this claim language complies with the first paragraph of 35 U.S.C. 112. The examiners agreed that they would be favorably disposed to

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accept this claims language as patentably distinguishing the present protein from that disclosed by Seckinger, thus obviating the rejection of record.

Accordingly, the present Supplemental Amendment is being filed to insert this further claim recitation so as to place the case in condition for allowance. This Supplemental Amendment is in compliance with 37 C.F.R. § 1.111(a)(2) as it is effectively the adoption of an examiner's suggestion from the interview, and so as to place the application into condition for allowance.

Accordingly, entry of the present Supplemental Amendment and reconsideration and withdrawal of the rejections of record for the reasons presented herein and as set forth in applicant's Amendment/Remarks of August 31, 2005, are earnestly solicited.

Respectfully submitted,

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